

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BANK EXPRESS INTERNATIONAL,)
Plaintiff,)
)
v.) CIVIL ACTION NO.: 02-CV- 4076
)
KANG, BANKCARD SERVICES, et al.,)
Defendants.)

DEFENDANTS' MOTION TO DISMISS AND STRIKE
PLAINTIFF'S AMENDED COMPLAINT

All defendants in this action, through undersigned counsel and pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(3), move that plaintiff's amended complaint be dismissed and stricken for lack of jurisdiction over the persons of defendants and for improper venue. Pursuant to Fed. R. Civ. P. 12(e), defendants also move that plaintiff's amended complaint be stricken and request a more definite statement with respect to defects in plaintiff's complaint.

All defendants object to the exercise of personal jurisdiction over them in this forum. Personal jurisdiction does not exist, and can not be exercised, over any of the defendants in this forum. As set forth more fully in Defendants' Memorandum of Law in support of this motion, neither general jurisdiction nor specific jurisdiction exists with respect to any defendant in this forum. Plaintiff has not demonstrated "continuous and substantial" activity in Pennsylvania by any *defendant*. Plaintiff has not demonstrated that the "focal point" of any act or omission plaintiff alleges by or on behalf of any defendant was the Commonwealth of Pennsylvania. In short, even after filing an Amended Complaint, Plaintiff has not shown and cannot show, that this forum can properly exercise jurisdiction over any defendant in this action.

All defendants object to venue in this forum. Venue is not proper in this forum for the

claims plaintiff seeks to assert against defendants. As more fully set forth in the defendants' Memorandum of Law in support of this motion, venue is improper in this forum.

As a result, all defendants move this Honorable Court to dismiss and strike plaintiff's complaint in this action. In the alternative, all defendants move this Honorable Court to transfer plaintiff's complaint as amended, and this action, to the United States District Court for the Northern District of California, a forum where jurisdiction and venue are proper for plaintiff's complaint and this action.

In support of their motion, Defendants rely upon the pleadings previously filed in this action, the exhibits attached to those pleadings, and Defendants' Memorandum of Law filed herewith and incorporated herein as though fully set forth.

Respectfully submitted,
The Law Firm David Oh, P.C.

By: David H. Oh, Esquire
Attorneys for Defendants

Dated: September 9, 2002

CERTIFICATE OF SERVICE

I, David H. Oh, Esquire, hereby certify that on September 9, 2002 I served a copy of Defendants' Motion To Dismiss and Strike Plaintiff's Amended Complaint in this action, together with a Memorandum of Law in Support and a proposed Order, by First Class Mail on the following:

Douglas T. Gould, Esq.
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David H. Oh

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ORDER

AND NOW, this _____ day of _____, 2002, upon consideration of Defendants' Motion To Dismiss Plaintiff's Amended Complaint and any Opposition thereto, it is hereby ORDERED that said motion is **GRANTED**. Plaintiff's Complaint as amended is hereby **DISMISSED AND STRICKEN**.

By the Court:

_____, J.